

SCOTTISH GOVERNMENT CONSULTATION – DRAFT REVISED GUIDANCE –  
LICENSING (SCOTLAND) ACT 2005**1. Purpose**

- 1.1 To consider the terms of a response to the Scottish Government's consultation on its draft revised guidance for the Licensing (Scotland) Act 2005.
- 1.2 Subject to any amendments considered necessary by the Board, to submit a response to the consultation.

**2. Main Report**

- 2.1. The Scottish Government is consulting on the terms of a new draft of the guidance to the Licensing (Scotland) Act 2005. Section 142 of the Act requires licensing boards to have regard to the terms of the guidance, when carrying out their statutory functions. The consultation period opened on 19<sup>th</sup> March and closes on 11<sup>th</sup> June 2019.
- 2.2. The consultation seeks views on the terms of the new draft guidance, which has been prepared having taken account of a number of statutory changes, since the original guidance was issued in 2007.
- 2.3 The Board was advised at its meeting on 29<sup>th</sup> April that the consultation had commenced and it was agreed that a draft response would be prepared for the Board's consideration at its next meeting. The details of the draft response are attached. Board members will note that the consultation has not focused on particular questions, instead inviting (1) comments on any areas within the draft guidance which are considered to be unclear and (2) comments on other issues which should be taken into account within the guidance.
- 2.4 It is suggested that it is welcome that the guidance has been updated, considering the significant changes to the 2005 Act since its commencement in September 2009 and the Board may wish to emphasise this point. The guidance provides a detailed source of support for the Board in carrying out its functions in terms of the Act. As the Board must have regard to it when carrying out its functions, it is important to ensure that there is a familiarity with its terms. This consultation provides an opportunity to the Board to highlight any areas of the guidance which require clarification. A link to the guidance document is provided at the foot of this report (Paragraph 4 below).
- 2.5 It is recognised though, that the time available to the Board to digest and comment upon what is a very detailed document is limited. However with regard to the terms of the draft revised guidance, particular attention is drawn to the following as potentially being of significance to the Board:-
  - Statements of Licensing Policy (Chapter 4)
  - The Overprovision Assessment (Chapter 5)
  - Premises Licence (Chapter 8)

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- Occasional Licence (Chapter 9)

There is a separate consultation being conducted on the operation of occasional licences, which is the subject of a separate report.

2.6 The Board has already had some experience of dealing with part of the amended guidance, in its assessment of overprovision as part of the Board's licensing policy preparation. In considering reports on overprovision the Board had regard to current guidance on overprovision, as well as extracts from the new draft which had been provided as an additional support in carrying out this work.

2.7 Subject to any comments the Board may wish to make about the terms of the new draft guidance, or any areas which the Board considers are not sufficiently covered, it is suggested that a short response is submitted in support of its terms.

### **3. Recommendation**

3.1 The Board is asked to note the terms of the consultation, and agree to the terms of a response.

### **4. Background Papers**

<https://www.gov.scot/publications/consultation-licensing-scotland-act-2005-section-142-draft-revised-guidance-licensing-boards/>

**Depute Clerk of the Licensing Board**